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MEMORANDUM FOR: Heads of Contracting Activities
PAUL R
FROM: Paul Courtney COURTNEY
Chief Procurement Officer
SUBJECT: Federal Acquisition Regulation Class Deviation (Number 25-03) –
Implementing Section 2 of the Executive Order (E.O.) 14148, “Initial
Rescissions of Harmful Executive Orders and Actions” and Section 2
of Executive Order 14208, “Ending Procurement and Forced Use of
Paper Straws”

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R COURTNEY
Date: 2025.02.24
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Purpose: This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404. The purpose of this deviation is to implement Section 2 of the E.O. 14148, “Initial Rescissions of Harmful Executive Orders and Actions,” which revoked E.O. 14057 and Section 2 of the E.O. 14208, “Ending Procurement and Forced Use of Paper Straws.”

Effective Date: Immediately

Background: On February 18, 2025, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2025-02, Supplement 1. The letter authorizes agencies to issue a class deviation in accordance with FAR 1.404 to implement:

- Section 2 of E.O. 14148, “Initial Rescissions of Harmful Executive Orders and Actions,” of January 20, 2025 (see 90 FR 8237), which revoked E.O. 14057, “Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability,” of December 8, 2021; and
- Section 2 of E.O. 14208, “Ending Procurement and Forced Use of Paper Straws,” of February 10, 2025 (see 90 FR 9585), which directs agencies to take appropriate action to eliminate policies designed to disfavor plastic straws.

Requirement:

Effective immediately, contracting officers must use the revised definitions in FAR Part 2 and follow the revised procedures in parts 11, 18, 23, and 37 as illustrated in the attachment.

(1) New Solicitations and Contracts:

- a. When issuing **new solicitations or contracts**, contracting officers **shall not include** the following provisions and clauses:

- 52.204-8 Annual Representations and Certifications (JAN 2025)
- 52.223-1 Biobased Product Certification (MAY 2024)
- 52.223-2 Reporting of Biobased Products Under Service and Construction Contracts (MAY 2024)
- 52.223-10 Waste Reduction Program (MAY 2024)
- 52.223-19, Compliance with Environmental Management Systems (MAY 2011)
- 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (DEC 2016)
- 52.223-23, Sustainable Products and Services (MAY 2024)

b. Contracting officers **shall include** the following provision and clause deviations, which are provided in full text in the attachment, if applicable.

- 52.204-8 Annual Representations and Certifications (JAN 2025) (DEVIATION FEB 2025)
- 52.223-1 Biobased Product Certification (MAY 2024) (DEVIATION FEB 2025)
- 52.223-2 Reporting of Biobased Products Under Service and Construction Contracts (MAY 2024) (DEVIATION FEB 2025)
- 52.223-10 Waste Reduction Program (MAY 2024) (DEVIATION FEB 2025)
- 52.223-23, Sustainable Products and Services (MAY 2024) (DEVIATION FEB 2025)

c. Contracting Officers shall also **include the following notice** and refrain from considering the representations listed in the notice¹:

System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in agency solicitations, including 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, and paragraph (t) of 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services. Components shall not consider or use these representations.

Contracting officers **will not consider** the following representations when making award decisions or enforce requirements:

- Paragraph (d) and (t) of 52.212-3, Offeror Representations and Certifications—
 - Commercial Products and Commercial Services;
 - Paragraphs (b)(33), (b)(34), (e)(1)(ix), and (e)(1)(x) of 52.212-5, Contract Terms and

Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services. **Additionally, per this deviation, in paragraph (b)(46), E.O. 14057 does not apply;**

¹ The representations in this section cover this deviation and the FAR Class Deviation 25-01 EOs 14173 and 14168 issued on February 21, 2025.

- Paragraphs (e)(1)(ii)(I) and (e)(1)(ii)(J) of Alternate II of 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—
- Commercial Products and Commercial Services; and Paragraphs (a)(1)(vii) and (a)(1)(viii) of 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).
Additionally, per this deviation, in paragraph (b)(1)(xvii), E.O. 14057 does not apply.

Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.

- (2) **Existing Solicitations:** Contracting officers shall amend any open solicitations that contain any of the provisions or clauses listed in paragraph (1) a. to remove the provisions and clauses, include the provisions and clauses in paragraph (1) b. as applicable, **and** include the notice in paragraph (1) c.
- (3) **Existing Contracts:** Contracting officers shall modify contracts and orders by removing any of the clauses as well as adding any of the February 2025 deviation clauses set forth above at the **exercise of the next option period or at the next modification** of the contract or order.

Furthermore, in advancement of Section 2 of Executive Order 14208, the removal of requirements related to Executive Order 14057 eliminates all non-statutory sustainability requirements or preferences in purchases of food service wares, including paper straws. In addition to removing requirements related to Executive Order 14057, the attachment also reflects recent updates to Code of Federal Regulation citations for the U.S. Department of Agriculture’s BioPreferred® Program, a statutory purchasing preference program.

Applicability: This class deviation is applicable to all solicitations and contracts (see definition of contract at FAR 2.101). Component Acquisition Policy Chiefs should coordinate with the appropriate Component Contract Writing Systems (CWS) personnel to use the modified clauses.

Deviation: This FAR class deviation provides in the attachment FAR revisions that implement E.O.s 14148 and 14208.

Expiration: This class deviation will remain in effect until superseded, incorporated into the FAR, or otherwise rescinded.

- **Attachments:** Attachment 1 – Provision and Clause Deviations (Feb 2025)
- Attachment 2 – CAAC Letter 2025-02, Supplement 1, Supplement to CAAC Consultation to Issue
a Class Deviation From the Federal Acquisition Regulation (FAR) Regarding Section 2 of the Executive Order 14148, “Initial Rescissions of Harmful Executive Orders and Actions,” which revoked Executive Order 14057 and Section 2 of Executive Order 14208, “Ending Procurement and Forced Use of Paper Straws.”

Additional Information: Component Acquisition Policy Chiefs should coordinate with the appropriate Component CWS personnel to use the modified clauses.

Contracting officers are advised to review the full list of FAR parts impacted in Attachment 2.

Questions or comments about this class deviation may be directed to Linda Stivaletti-Petty at Linda.Stivaletti@hq.dhs.gov.

Attachment 1 – Provision and Clause Deviations (Feb 2025)

52.204-8 Annual Representations and Certifications.

As prescribed in 4.1202(a), insert the following provision:

Annual Representations and Certifications (JAN 2025) (DEVIATION FEB 2025)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is _____ *[insert NAICS code]*.

(2) The small business size standard is _____ *[insert size standard]*.

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(b) (1) If the provision at [52.204-7](#), System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the provision at [52.204-7](#), System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

(i) ☐ Paragraph (d) applies.

(ii) ☐ Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c) (1) The following representations or certifications in SAM are applicable to this solicitation as indicated:

(i) [52.203-2](#), Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

(A) The acquisition is to be made under the simplified acquisition procedures in [part 13](#);

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.

(iv) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.

(v) [52.204-5](#), Women-Owned Business (Other Than Small Business). This provision applies to solicitations that-

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(vi) [52.204-26](#), Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.

(vii) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations-Representation.

(viii) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(ix) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

(x) [52.214-14](#), Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(xi) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(xii) [52.219-1](#), Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.

(xiii) [52.219-2](#), Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(xiv) **Reserved**

(xv) **Reserved.**

(xvi) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial products or commercial services.

(xvii) [52.223-1](#), Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of biobased products in USDA-designated product categories; or include the clause at [52.223-2](#), Reporting of Biobased Products Under Service and Construction Contracts.

(xviii) [52.223-4](#), Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xix) **Reserved.**

(xx) [52.225-2](#), Buy American Certificate. This provision applies to solicitations containing the clause at [52.225-1](#).

(xxi) [52.225-4](#), Buy American-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternates II and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$100,000, the provision with its Alternate II applies.

(xx) [52.225-2](#), Buy American Certificate. This provision applies to solicitations containing the clause at [52.225-1](#).

(xxi) [52.225-4](#), Buy American-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternates II and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$100,000, the provision with its Alternate II applies.

(C) If the acquisition value is \$100,000 or more but is less than \$102,280, the provision with its Alternate III applies.

(xxii) [52.225-6](#), Trade Agreements Certificate. This provision applies to solicitations containing the clause at [52.225-5](#).

(xxiii) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan-Certification. This provision applies to all solicitations.

(xxiv) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.

(xxv) [52.226-2](#), Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following representations or certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

___ (i) [52.204-17](#), Ownership or Control of Offeror.

___ (ii) [52.204-20](#), Predecessor of Offeror.

___ (iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

___ (iv) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment- Certification.

___ (v) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

___ (vi) [52.227-6](#), Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

___ (vii) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically in SAM website accessed through <https://www.sam.gov>. After reviewing the SAM information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
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Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

(End of provision)

52.223-1 Biobased Product Certification (MAY 2024) (DEVIATION FEB 2025)

As prescribed in [23.109\(c\)\(1\)](#), insert the following provision:

Biobased Product Certification (MAY 2024) (DEVIATION FEB 2025)

As required by the Farm Security and Rural Investment Act of 2002 ([7 U.S.C. 8101\(4\)](#)) and the Energy Policy Act of 2005 ([7 U.S.C. 8102\(a\)\(2\)\(F\)](#)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture at <https://www.biopreferred.gov/resources/categories.html> to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the offeror as a direct result of this contract, will comply with the applicable specifications or other contractual requirements.

(End of provision)

52.223-2 Reporting of Biobased Products Under Service and Construction Contracts (MAY 2024) (DEVIATION FEB 2025)

As prescribed in [23.109\(c\)\(2\)](#), insert the following clause:

Reporting of Biobased Products Under Service and Construction Contracts (MAY 2024) (DEVIATION FEB 2025)

(a) *Definitions.* As used in this clause—

Biobased product means a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. ([7 U.S.C. 8101](#)) (7 CFR 4270.2).

USDA-designated product category means a generic grouping of products that are or can be made with biobased materials—

- (1) That are listed by USDA in a procurement guideline **available at <https://www.biopreferred.gov/resources/categories.html>**; and
 - (2) For which USDA has provided purchasing recommendations (available at <https://www.biopreferred.gov>) or 7 CFR part 4270.
- (b) The Contractor shall report to <https://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any biobased products in USDA-designated product categories purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and
- (c) Submit this report no later than—
- (1) October 31 of each year during contract performance; and
 - (2) At the end of contract performance.

(End of clause)

52.223-10 Waste Reduction Program (MAY 2024) (DEVIATION FEB 2025)

As prescribed in [23.406\(c\)](#), insert the following clause:

Waste Reduction Program (MAY 2024) (DEVIATION FEB 2025)

(a) *Definitions.* As used in this clause-

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) The Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource

Conservation and Recovery Act ([42 U.S.C.6962](#), *etseq.*) and implementing regulations (40 CFR Part 247).

(End of clause)

52.223-19 (Reserved) (DEVIATION FEB 2025)

52.223-22 (Reserved) (DEVIATION FEB 2025)

52.223-23 Sustainable Products and Services (MAY 2024) (DEVIATION FEB 2025)

As prescribed in [23.109](#)(a), insert the following clause:

Sustainable Products and Services (MAY 2024) (DEVIATION FEB 2025)

(a) *Definitions.* As used in this clause—

Biobased product means a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. ([7 U.S.C. 8101](#)) (**7 CFR part 4270.2**).

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. ([42 U.S.C. 6903](#)).

Sustainable products and services means:

(1) Products containing recovered material designated by the U.S. Environmental Protection Agency (EPA) under the Comprehensive Procurement Guidelines ([42 U.S.C. 6962](#)) ([40 CFR part 247](#)) (<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>).

(2) Energy- and water-efficient products that are ENERGY STAR® certified or Federal Energy Management Program (FEMP)-designated products ([42 U.S.C. 8259b](#)) ([10 CFR part 436, subpart C](#)) (<https://www.energy.gov/eere/femp/search-energy-efficient-products> and <https://www.energystar.gov/products?s=mega>).

(3) Biobased products meeting the content requirement of the USDA under the BioPreferred® program ([7 U.S.C. 8102](#)) (**7 CFR part 4270**) (<https://www.biopreferred.gov>).

(4) Acceptable chemicals, products, and manufacturing processes listed under EPA's Significant New Alternatives Policy (SNAP) program, which ensures a safe and smooth transition away from substances that contribute to the depletion of stratospheric ozone ([42 U.S.C. 76711](#)) ([40 CFR part 82, subpart G](#))

(<https://www.epa.gov/snap>).

(b) *Requirements.*

(1) The sustainable products and services, including the purchasing program and type of product or service, that are applicable to this contract, and any products or services that are not subject to this clause, will be set forth in the statement of work or elsewhere in the contract.

(2) The Contractor shall ensure that the sustainable products and services required by this contract are—

(i) Delivered to the Government;

(ii) Furnished for use by the Government;

(iii) Incorporated into the construction of a public building or public work; and

(iv) Furnished for use in performing services under this contract, where the cost of the products is a direct cost to this contract (versus costs which are normally applied to the Contractor's general and administrative expenses or indirect costs). This includes services performed by contractors performing management and operation of Government-owned facilities to the same extent that, at the time of award, an agency would be required to comply if an agency operated or supported the facility.

(c) *Resource.* The Green Procurement Compilation (GPC) available at <https://sftool.gov/greenprocurement> provides a comprehensive list of sustainable products and services and sustainable acquisition guidance. The Contractor should review the GPC when determining which **statutory** purchasing programs apply to a specific product or service.

(End of clause)